

FODOR LAW OFFICE, PC



October 28, 2022

Sent Via Email Only

Teton County Board of County Commissioners

nmacker@tetoncountywy.gov; gepstein@tetoncountywy.gov;

mnewcomb@tetoncountywy.gov; mbarron@tetoncountywy.gov; lpropst@tetoncountywy.gov

Re: Legacy Lodge; CUP2021-0005 conditions

Dear Commissioners:

As we near the conclusion of this application for a CUP and move towards a vote with conditions, Stage Stop ("Owner") wanted to reiterate what it can accept in terms of conditions and still make this a viable and meaningful project. Throughout this process, the Owner has strived to address concerns raised by this Board, the Planning Commission, Staff, and neighbors. During your last meeting, the conditions continued to evolve, and the Owner wants to let you know what it can, and as importantly, cannot accept in terms of conditions on its application.

The Applicant has gone to great lengths to try and meet sometimes competing interests and demands on this application, most of which have been added for the benefit of the neighborhood and community at the expense of the Owner. While the Owner is willing to accept reasonable conditions, some of the conditions discussed at the last meeting would place an unreasonable burden on the Owner if enacted with the final CUP. To that end, we hope you can accept the following revisions. If the conditions adopted by this Board, deviate materially from those proposed, the Applicant wants to be clear that, regrettably, it will not be pursuing its CUP, whether granted or not, and will pursue alternative development proposals which do not require a CUP.

Transportation Demand Management Plan

The owner prepared a Transportation Demand Management Plan ("TDM") narrative and presented it to the Board at the November 1 meeting. We feel that the current set of recommended conditions (with our proposed revisions and additions in redline below) capture, and succinctly state, the entirety of the TDM and therefore have not prepared a separate narrative for this Board. We feel that a separate TDM is duplicative and unnecessary. Stated another way, the current set of conditions (as revised below) codifies the entirety of Transportation Demand Management Plan discussed to date for this project and we don't see a separate agreement as necessary given the transportation concerns and proposed solutions/mitigation strategies discussed to date.

The current set of conditions require:

- i) adequate monitoring of operations and parking (see Condition #4),
- ii) public transit support and contingency plan should public transit be discontinued (see Condition #5), and
- iii) pathway improvements (see Condition #6),
- iv) adequate parking (see Condition #8),

- v) adequate bicycle infrastructure and parking (see Condition #9).
- vi) parking management and enforcement (see Condition #12),

What else is needed?

Additionally, and of primordial importance, Condition #4 already requires annual monitoring and demonstration of compliance with **all** conditions of the CUP. Further, this condition gives this Board oversight and authority to call back this CUP should transportation-related impacts negatively affect the surrounding neighborhood. We are confident that that you will hear from this neighborhood if there are adverse impacts.

This CUP, if approved, will contain a great deal of oversight by the County and TCHA to make certain the conditions are being adhered to on a continuing basis. It is also important to point out that the owner/operator will have a substantial incentive to meet each of the conditions of approval and make this a housing success for our workforce. The owner wants to avoid being brought back before this Board, is incentivized to not have people parking on Big Trails Drive and motivated to reduce complaints and reduce the risk of having additional conditions imposed in the future due to noncompliance. Put another way, the owner wants to make this work and if it doesn't, that will jeopardize a lot of work and financial investment in this project. In short, the Owner wants units filled with workers who want to live here, because empty units like we have now are good for no one.

CONDITIONS

The owner is completely supportive of conditions# 2, 6, 7, 9, 11, 12 13.

Condition # 1. JTCHA to approve form of lease for compliance with LDR and Rules.

Prior to the issuance of a Certificate of Occupancy for the units within each building wing (4 wings in total), the owner shall restrict the occupancy of the apartment units to members of the Teton County Workforce, in a deed restriction form that is acceptable to the Jackson/Teton County Affordable Housing Department. [The form of E](#)each occupant lease and master lease shall require review and approval by the Housing Department prior to applicant use for the purpose of determining compliance with the Teton County Housing Rules and Regulations and applicable conditions.

Condition # 3. Community Service Providers¹ definition and mechanics – mechanics.

At least 50% of the units ([rounding down in the case of a fractional unit](#)) shall be occupied by qualifying members of the workforce who also meet one of the following criteria ([each a "Community Service Provider" or "CSP"](#)):

- a. An employee or volunteer of an organization that has a position on the Critical Service Providers list ([or successor list](#)) as approved by the Jackson/Teton County Affordable Housing Department. [If the Housing Department no longer maintains such a list, the approved organizations shall be those on the final version of the list;](#)
- b. An employee of Teton County School District #1 or a private school in Teton County, WY;

¹ At the suggestion of written comments by the TCHA dated 10/13/22, we have changed the name Critical Service Provider to Community Service Provider to reflect the broader inclusion of teachers, childcare providers and non-emergency medical staff.

- c. An employee of a Wyoming state licensed child-care or adult care provider;
- d. An employee of a public or private utility provider who provides utility services in Teton County, Wyoming;
- f. An employee of an organization included on the Community Health and Social Services Directory in Teton County, Wyoming (or its Successor Directory). If Teton County no longer maintains such a directory, the approved organizations shall be those on the final version of the Directory;
- g. Medical providers; or
- h. An employee of an organization that is an active member of the Human Services System of Care in Teton County.

At any time less than 55% of units are occupied by Community Service Providers, the Owner shall provide written notice (email is acceptable) to the above employers of a vacancy and the employers shall have 15 days from the date of such notice to provide the contact information of any interested employee. If after 45 days from notice of vacancy, the unit remains unfilled by a CSP, the Owner shall be entitled to fill such vacancy with a qualified household on the same terms and conditions offered to the Community Service Providers and the above process shall be repeated at the next vacancy. The applicant shall provide records demonstrating compliance with this requirement with the annual monitoring report and/or at the request of the Planning Director.

Condition # 4. If there is an issue in the future and BCC wants to add or change conditions, this is a CUP amendment.

Annual monitoring reports shall be submitted by the owner to the Teton County Planning Director prior to January 31st of each year, which at minimum shall demonstrate compliance with the conditions of approval including the occupancy restriction ~~and analysis of the Parking and Transportation Demand Management plan~~. These reports may be elevated to the Board of County Commissioners if deemed the monitoring report warrants a public review. If new issues of negative impacts arise or changing conditions cause unanticipated consequences associated with the use, the Board may impose additional mitigation measures and/or additional conditions may be required in association with the Conditional Use Permit through a Condition Use Permit amendment.

Condition # 5. Transportation

The ~~Transportation Demand Management plan shall include the~~ owner/operator shall supply all occupants of the apartment building with START Bus passes annually, at no cost to the occupant. Should individual occupants choose not to receive a pass, then the owner/operator shall make a contribution to START in an amount equal to the cost of the unused passes to support START service to the Property Rafter J. Prior to the occupancy of any apartment units the applicant shall enter into an agreement with START to document the above requirement. In the event START or a public transit entity does not provide service to the Rafter J neighborhood, the owner shall provide its own transit service for occupants of the apartment building providing shuttle services from 7am to 6 pm. During Peak Periods (7:00 am to 10 am and 3 pm to 5 pm) the shuttle service will be dedicated routes at specified times. During off hour times, the shuttle service will be on demand, similar in style to the proposed START service for Rafter J, South Park, and Melody Ranch. The owner/operator shall report information on such private transit service, including shuttle usage, routes, and average daily trips, in its annual monitoring report to Teton County.

Condition # 8 Clarify parking 1 guest spot for 10 occupied units.

Prior to occupancy of any individual apartment unit, the owner shall install the additional required vehicle parking equal to a minimum of one parking space per unit occupied and 1 additional guest space per 10 occupied units ~~for a total of 62 vehicle parking spaces for 57 occupied units.~~

Condition # 10. Occupancy

Prior to occupancy of each building wing (4 wings in total), each unit shall, at minimum, include complete kitchen facilities as defined in LDR Division 9.5., and Livability Standard components of the Housing Department Rules & Regulations for existing units [\(though the owner can still apply for and receive administrative variances to the Livability Standards in the Rule and Regulations pursuant to standard Housing Department administrative procedures\)](#), and be inspected by Teton County Staff.

Additional Conditions discussed at the October 18 meeting.


CC&RS. The Applicant cannot accept a condition based on Rafter J CC&R approval. The County's purview is whether the CUP meets Teton County's LDRs.

Severability. It was proposed that if a court of competent jurisdiction invalidated a condition of the CUP, the entire CUP would have to come back before the Commission. This condition is acceptable.

Permit Stayed until Lawsuit is Resolved. As Deputy County Attorney Keith Gingery pointed out during your last meeting, the lawsuit filed by the neighbors is not, as claimed, several weeks away from being resolved, but likely many months away from final resolution. While the Owner feels it would be beneficial to our workforce to have 55 more units available for workforce housing sooner rather than later, the Owner understands your potential concerns and would agree to a stay of the issuance of any Certificates of Occupancy under this CUP until the current lawsuit is fully and finally resolved beyond all applicable appeal periods, but requests that the permit be issued upon approval.

Thank you for your continued efforts on this important application. We look forward to continuing this conversation on November 1 and having a vote on the application.

Regards,


Fodor Law Office, PC
Stefan J. Fodor

cc: Keith Gingery, *via email*
Chandler Windom, *via email*
Chris Neubecker, *via email*
Kevin Gregory, *via email*